

FISCAL NOTE

HB 2876 - SB 3041

February 9, 2008

SUMMARY OF BILL: Creates a new Class D felony offense for the fifth or subsequent conviction of driving under the influence (DUI) punishable by a fine of not less than \$5,000 or more than \$15,000, and confinement not less than 360 consecutive days or more than the maximum punishment for a Class D felony, which ranges from two to 12 years. The offender is prohibited from driving a motor vehicle for five years. Removes current 10-year limitation on consideration of prior DUI offense and expands prior offenses to include vehicular assault, vehicular homicide by intoxication or aggravated vehicular homicide.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$619,600/Incarceration*

Increase Local Revenue – \$450,000

Increase Local Expenditures – Not Significant

Assumptions:

- Under current law, a fourth or subsequent conviction is a Class E felony is punishable by a fine of not less than \$3,000 or more than \$15,000, and confinement of not less than 150 consecutive days.
- During FY07, 168 offenders were admitted to the Department of Correction (DOC) for a fourth or subsequent conviction of DUI. DOC estimates 25 percent (42) of these would have been for a fifth or subsequent violation and would be sentenced to a minimum 360 consecutive days (an increase from 150 days to 360 days) as a result of this bill. According to DOC, the average operating cost per inmate per day for calendar year 2008 is \$62.78.
- Forty-two offenders will receive a sentence elevated from a Class E to a Class D felony and will serve an additional 0.575 years (210 days) in the first year.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.09 percent per year for the past 10 years. Population growth will result in five additional offenders in the tenth year. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 47 offenders serving additional time. The cost per inmate at

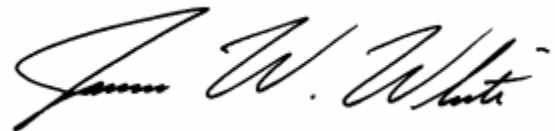
150 days is \$9,417.00 (\$62.78 x 150 days). The cost per inmate at 360 days is \$22,600.80 (\$62.78 x 360 days). The additional cost from increasing the average sentence length from 150 days to 360 days is \$13,183.80. The total additional operating cost for 47 offenders is \$619,638.60 (\$13,183.80 x 47).

- DUI fines are retained by the counties. The Department of Safety estimates an average of 300 DUI misdemeanor offenses for a fifth or subsequent violation will occur each year. Approximately 25 percent of those will not pay the fines. Increasing the fine from \$3,000 to \$5,000 for a fifth or subsequent DUI violation will increase local government revenues by an estimated \$450,000 (300 x .75 = 225 x \$2,000).
- A small increase in cases in the court system, which will result in additional state and local government expenditures for processing the cases and additional local government revenue from fees, taxes and costs collected. These expenditures are estimated to be not significant.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director

/lsc